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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,962	04/11/2005	Ulrich Maurer	05-169	3980
7590 Barry L. Welmacher Bachman & LaPointe 900 Chapel Street Suite 1201 New Haven, CT 06510				
07/02/2008				
EXAMINER				
SIMONE, TIMOTHY F				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
07/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,962

Applicant(s)

MAURER, ULRICH

Examiner

Timothy F. Simone

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The amendment filed April 3, 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "output" shaft, etc. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13 and 18-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. For example, there is no support in the original specification for the following amended claim language: "being designed as a hollow cylinder *having a horizontal axis* and being closed on all sides" (claim 19, lines 3-4), "in such a manner as to be *removable* from the service drum *by axial displacement*" (claim 19, lines 8-10), "for foodstuffs to be cooked" (claim 19, line 16), "for supplying the frying drum with portions of the foodstuffs"(claim 19, lines 18-19), etc. This is a new matter rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over lori (US 6,807,900 B2) in view of Giacomini (WO96/19934 A). The patent to lori discloses an apparatus for foodstuff in water or oil including a frying device (10) for cooking foodstuffs, comprising a service drum (16), a frying drum (30) designed as a hollow cylinder having a horizontal axis and being formed from a sheet, a separate vessel (26) containing cooking liquid, a discharge drum (54) having a discharging conveyor chute (56), arranged coaxial within the frying drum (30) and being attached to a front-end cover of the service drum (16), a motor (44), a revolving agitator (32) accommodated in the frying drum (30), connected to the motor (44) and rotatable around the axis, for transporting portions of the foodstuff underneath the discharge drum (54) through the liquefied fat and conveying the cooked portions onto the conveyor chute (56) when driven by the motor (44). Giacomini discloses a frying device (1) comprising a service drum (8), a frying drum (2) designed as a hollow cylinder having a vertical axis and being closed on all sides, containing liquefied cooking fat, a discharge chute (4) on the outside of the frying drum (2), the frying drum (2) being accommodated in the service drum (8) in such a manner as to be removable from the

service drum (8) by displacing it axially, a motor (18), a revolving agitator (23) accommodated in the frying drum (2), connected to the motor (18) and rotatable around the axis, for transporting portions of the foodstuff within the liquefied fat and rod-crank mechanism (17) for conveying the cooked portions onto the conveyor chute (4) by lifting up the revolving agitator (23). Thus, it would have been obvious to one having ordinary skill in the art to have provided lori with a solid sheet frying drum being closed on all sides and to make the frying drum and discharge drum together "axially removable" from the service drum as a unit in the manner suggested by Giacomini for purposes of simplicity and in order to save time and cleaning energy, if so desired.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy F. Simone whose telephone number is 571-272-1407. The examiner can normally be reached on weekdays between 8:00am-5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy F. Simone/

Primary Examiner, Art Unit 3742

Timothy F. Simone
Primary Examiner
Art Unit 3742

Application Number**Application/Control No.**

10/523,962

Examiner

Timothy F. Simone

**Applicant(s)/Patent under
Reexamination**

MAURER, ULRICH

Art Unit

3742